

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, April 2, 2014 at Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell called the meeting to order at 9:00 A.M. Members of the Town Board present were Councilmember's Bernard Kolber, Patrick Casilio, Peter DiCostanzo and Robert Geiger. Other Town Officials present were Town Attorney Lawrence Meckler, Town Engineer Timothy Lavocat and Confidential Secretary to the Supervisor Karen Jurek.

Clarence Hollow Association – Jean O'Connell and Paul Cambria

Jean O'Connell stated that she has spent the last two years getting a working board to do some great things for the Hollow. Last year they planned Hollowfest in four months' time and it was a very big success, there were no complaints. They would like to continue with their event as long as they can get people involved. To do this, she needs support of the town. She is asking for support from the Town Board in some financial way so they can show that the town is behind what they do. She wants to help the Hollow, they have made some headway but need money to make greater headway. Again, she is asking for monetary support to continue Hollowfest.

Paul Cambria stated that they have a lot of momentum to run this project. They will handle their own fireworks and have already signed a contract for \$9,000+. The show will be spectacular. It is symbiotic to their event because it will draw people and keep people at their event. Last year, Supervisor Hartzell had suggested that Clarence Hollow have a Fourth of July Parade. Last year's Memorial Day Parade was a disappointment, there was not enough music or attractions. What better way to celebrate our Country's independence than with a parade. Mr. Cambria has done everything possible to make it happen. He has met with the organizer of the Labor Day parade and he was given a list of every marching organization and the fee they charge. The cost is approximately \$7,000. The Hollow Association has money, they have committed themselves to \$9,000+ for fireworks. It will cost another \$4,000. for entertainment and along with that there are other costs involved as well. If the Town wants a parade, the Hollow Association needs financial support from the town, they need more than \$1,000 to make it happen. They met with the Chamber of Commerce and they felt it was too late to get any marching bands. Mr. Cambria stated that if he can get the financing, he will find out if it is too late or not – he will contact all the bands from the list he was given. If there is money available, the Hollow Association will go forward and make the parade happen, if not then they will not have a parade. The rest of the event will go on and be bigger and better this year. The amusement company is going to provide some bigger rides this year. Hit and Run is scheduled to play two nights and Route 66 will play as well.

Paul Cambria stated that the parade is a community event and is not just for Clarence Hollow. If the Town Board can find funding for a parade, they will go forward with it otherwise they cannot make it happen. Supervisor Hartzell asked how much money the Hollow Association was looking for. Mr. Cambria stated that he added up everything the fire company pays for the Labor Day Parade and it came out to \$7,200. It will cost \$15,000 - \$16,000 to put on Hollow Fest. There will be some sponsors, the deputies will be available for security which is no cost to the Hollow Association. They will need \$4,000 - \$5,000 from the Town to have the parade. Mr. Cambria is hoping to get the school bands to march in the parade along with the Boy Scouts.

Supervisor Hartzell stated that he did not budget an extra \$5,000 for a parade. He suggested cutting the parade down from a \$7,000 parade to a \$3,500 parade. The town previously committed \$1,000 so the Hollow Association would only have to raise \$2,500.

Jean O'Connell felt that if the town wanted to support the Hollow Association, they could find the money. She does not want to put on a half of a parade, they want to put on the best they can. They want to do something great for the Hollow and she is looking for financial support from the town.

Councilman Casilio stated that the Town has supported the Hollow Association, they have use of the park for several days during a holiday weekend. The Parks Department helped with the cleanup of the park during last year's event. This is the first time officially that the Board is hearing about a parade. Paul Cambria stated that he personally was there every day to clean up the park. Councilman Casilio commented that Hollowfest is introducing fireworks this year along with several bands, should they not

see how this year's event comes off before introducing a parade. Mr. Cambria felt there was no better time than the Fourth of July to march a thousand people down Main Street and end at the park where their event is being held with all the people in the community joining together celebrating our independence. They are a community group and Hollowfest benefits the entire community.

Town Attorney Meckler did some research on what the town could or could not do as far as appropriations for town events. It appears from all the state legislation, the town can have a Publicity Fund up to a maximum of \$25,000. to use for a specific purpose such as commemorative programs, historical events. However; there is a limit of \$5,000 for specific programs such as Independence Day, Memorial Day, Columbus Day and Veterans Day. Reading the both pieces of legislation, the maximum of \$30,000 could be used for community events that relate to publicizing the town.

Supervisor Hartzell stated that he put a line item in the budget of approximately \$6,000. of which \$2,500 is used to fund Clarence Hollow Farmers Market, \$1,000. to Clarence Hollow for the parade and any other small requests that may come in. Supervisor Hartzell was concerned that if the Board gives one group \$7,000 for a parade, what is to say the fire department does not approach the Board for funding of the Labor Day Parade or \$7,000 for Memorial Day Parade. Supervisor Hartzell is concerned with wasting tax payer money when you start giving out \$6,000 or \$7,000.

Councilman Casilio questioned why Clarence Hollow did not come to the Board at budget time and what is to stop the Rotary Club from asking the town for funding for Lobsterfest.

Councilman Kolber has concerns with other groups coming to the town asking for money to fund their organization.

In reviewing the budget, Councilman DiCostanzo noted that the Town sponsors the summer concerts in the Park and pays for the fireworks display that is held during Day in the Park.

Town Attorney Meckler said that upon the "adoption of a resolution, the Town Board of any town may establish a Publicity Fund to be expended for the purpose of advertising the advantages of such town as a summer or winter resort, or for commemoration programs of historical events or otherwise including the necessary and legitimate expense of securing a designation of such town as the place for holding the convention or meeting of any organization or society and for such additional purposes as may tend to promote the general, commercial and industrial welfare of the town." It limits it in a way to positive publicity for people to come to the town.

While attending a Supervisor's meeting, one town has cut off funding completely. There were too many groups coming to the town asking for money and you cannot pick and choose which groups to give to. While Supervisor Hartzell can understand why the Hollow

Association wants to have a parade for their event, he did not think they should start out as big as they wanted. Supervisor Hartzell received an e-mail from Jean O'Connell requesting funding for the fireworks and the parade and Supervisor Hartzell responded that the money was not in the budget this year and the Town Board would discuss it for the 2015 budget.

Town Attorney Meckler stated that §64 General Powers of Town Boards says any town may appropriate annually not to exceed \$5,000. sums as it may deem appropriate for the purpose of defraying the expenses of the proper observance of Independence Day, Memorial or Decoration Day, Columbus Day and Veterans Day in such proportion as it may determine.

Councilman Casilio stated that "the town is not in the entertainment business." He further stated that the Parks Department should not be involved in any way doing cleanup for Hollow Fest. The town should not be responsible for paying town employees holiday pay (\$100 per hour) specifically for cleaning up after this event. The Board was told that Hollowfest would have their own cleanup crews. Supervisor Hartzell suggested meeting with Parks Crew Chief James Burkard before July 4th.

Councilman DiCostanzo did not have any problem with giving Clarence Hollow Association some type of monetary support for the parade. If they get a good turn-out, they will sell more food/drinks and that is less money they will ask the town for next year.

Last December, Paul Cambria approached Supervisor Hartzell relative to the town providing funds for a July 4th parade this year. At the time, Supervisor Hartzell suggested \$1,000 to pay for prize money for the marching bands. The Town Board was in agreement with providing the \$1,000 for prize money provided the parade took place (no parade, no \$1,000). The money was set aside in the budget, but no specific resolution was passed allocating the money.

Councilman Geiger stated that the Clarence Farmers Market has not received the budgeted \$2,500. they also submitted a \$1,700 bill but have not received any of that money either. John Leamer sent a follow up letter to the Supervisor requesting the money. Supervisor Hartzell will check with Director of Administration and Finance Pam Cuvillo to find out what happened she was supposed to encumber the money for the \$1,700 bill. (Pam is in Albany for the week). The money left over in the Publicity Budget was to be used to pay some bills for the Farmers Market.

Karen Jurek obtained the budget information regarding Clarence Farmers Market. Last year the town paid them \$2,500. This year the Publicity Budget was \$5,000 but the board encumbered \$2,500. Nothing has been paid to date. Pam Cuvillo still had the bill on her desk for the parade. Last year the budget was \$5,000 but money was transferred at the end of the year and \$2,500 was encumbered so currently there is \$7,500 in the Publicity Budget. Supervisor Hartzell said that the \$2,500 encumbering was for the Farmers Market for this year.

Motion by Councilman Kolber, seconded by Councilman Geiger to approve \$4,000 for Clarence Hollow Association Hollowfest Fourth of July parade. On the question, the money is contingent on having a parade - no parade, no money. Upon roll call – Ayes: All; Noes: None. Motion carried.

Student Transportation of America is on the Agenda for April 16th, 2014 Town Board meeting. They are requesting a public hearing to consider a Temporary Conditional Permit for a school bus garage at 8033 Transit Road. At least four Planning Board members voted against this project however the other members of the Planning Board voted for it. Kathy Donner who lives in the area is against the project as well as several of her neighbors. Director of Community Development James Callahan said the project is not an approved use for this zone without a Temporary Conditional Permit and anything that would go into this building should improve the town. Several Planning Board members did not feel that a bus garage would help the Town of Clarence, especially a Williamsville bus garage. Councilman Kolber said the applicant will not want to make a huge investment in the site with only a Temporary Conditional Permit. He would like to see legal guidelines from the Planning Department/Legal Department for an acceptable use in the area.

Lumsden & McCormick – Sara Dayton & Mary Young - 2013 Audit Report

Lumsden & McCormick submitted an opinion on financial statements of the governmental activities for the Town of Clarence for the year ended December 31, 2013. The Annual Update Document has to be filed with the state by May 1st.

Current assets increased by \$753,000. These balances consist of cash and receivables from other governments and third parties.

Capital assets (infrastructure, buildings and improvements, machinery and equipment) represent the largest portion of the Town's total assets. Capital assets increased as a result of contributed land, roads and sewer lines, primarily as a result of new residential developments. The Town also purchased equipment and acquired land. Total liabilities increased. Long-term liabilities outstanding total 76.5% of total liabilities and are directly related to the Town's investment in capital assets. The majority of liabilities are long term which means they are due after the next year. Long-term debt \$16,700,000 is primarily made up of Bonds payable. No new Bonds were issued during the year. The Town's unfunded actuarial accrued liability as of December 31, 2013 under GASB Statement No. 45 is estimated to be \$5,500,000 and is recognized as a component of other postemployment expense on a recurring basis over a 30 year period.

Director of Administration and Finance Pam Cuvillo was attending a conference in Albany and was not present for the Audit Report.

The main sources of revenue to support the Town's programs are real property taxes and non-property taxes (sales taxes shared by Erie County). These items represent 76.7% of total revenues. Real property taxes remained consistent with 2012. Sales tax revenue increased by \$224,000.

The majority of Town expenses are in transportation (highway funds), public safety and culture and recreation. These expenses represent 69.1% of total Town expenses for 2013. Total expenses increased due to increases in employee benefits as a result of an increase in the contribution rates for the employees' retirement system, salaries and more overtime. In addition, the Town's payments to Erie County for sewer line maintenance increased approximately \$200,000 in 2013 and the Town spent more on road repairs.

Lumsden & McCormick is recommending the Town Board consider a policy formalizing the procedures regarding the use of Town facilities and any related charges. The rates that are charged should be formally adopted by the Town Board.

GASB Statement No. 68 (Accounting and Financial Reporting for Pensions – an Amendment of GASB Statement No. 27) will be effective for the year ending December 31, 2015. This change will have sweeping effects on pension accounting by governmental entities. It will require detailed disclosures on pension liabilities including length of service awards programs available to active volunteer firefighters.

Included in their current year procedures was an update of the status of recommendations made in previous audits.

Office of State Comptroller –Sara Dayton & Mary Young

Controls over Fuel & Fleet Management

Lumsden & McCormick LLP was asked to review the State Comptrollers Report and help implement/review their recommendations. The response is due to the Comptroller April 9th. Lumsden & McCormick have drafted the response in conjunction with Highway Superintendent James Dussing and Parks Crew Chief James Burkard. The report was shared with Director of Administration and Finance Pam Cuvillo and the Audit Committee. They were all in agreement that it was reasonable. Some of the items will not be resolved by the time the report is submitted to the State Comptroller but it is noted that the Town Board is actively reviewing them.

The fuel system at the Parks Department is currently manual. There is a 1000 gallon tank and a 500 gallon tank. The Town Board is actively getting prices for an electronic fuel system at the Parks Department. In the meantime, two Parks employees document the odometer readings of all Parks vehicles on alternating Fridays. Parks Crew Chief James Burkard is then reviewing those readings for all vehicles and is monitoring the fuel tanks for any abnormalities or unusual trends in usage. In addition, there is a security camera in place at the fuel pump and access is limited to those with fuel keys. The addition of fuel slots has ensured that each vehicle has its own fuel key. The original fuel system at the Parks Department had slots for only 50 vehicle keys. Mr. Burkard has since added a new box with 10 slots and the ability to add 40 more if necessary in the future.

All fuel keys have now been matched to their corresponding vehicles in the Highway Department and any unused or unnecessary keys have been deactivated in the system. Highway Personnel have reviewed and reconciled their listing of vehicles and corresponding fuel keys.

The Highway Department continues to work with its fuel system software vendor to ensure procedures are put in place and will be implementing a system upgrade as part of this process. In the meantime, all employees have been informed that odometer readings should be input when fueling. Mr. Dussing is reviewing the usage detail to ensure this is in fact happening. Signage is also being made to be put up at the fuel farm with instructions on proper fueling procedures. The unidentified fuel keys have since

been matched to their corresponding vehicles. This must be kept updated on an ongoing basis. The department is looking into a more permanent way to affix a number to each fuel key.

The Highway Department maintains two trucks with 90-gallon tanks bolted to them; any vehicles or equipment fueled by these tanks would not be reflected on the fuel usage reports. These tanks are used to fuel various equipment. A log book is being created to document fuel usage on these vehicles going forward.

Highway Superintendent James Dussing is in the process of reviewing and updating the Town's previous fleet policy, including inquiring of other similarly-sized towns as to the policies they have in place. Procedures will be put in place as part of the Town's comprehensive vehicle fleet policy. The Town is actively reviewing its current fleet and will reduce the number of vehicles once it is determined whether it is reasonable to do so based on the outcome of the review.

Sara Dayton from Lumsden & McCormick reviewed the IRS rules on personal usage of town vehicles. Currently Pam Cuiello is calculating this by taking the personal usage which includes commuting and multiplying it by the IRS rate of \$.56 mile and adding that on to the employees W2 form. The cents per mile rule can only be used for vehicles that meet the mileage test. The mileage test requires that the vehicle be driven at least 10,000 miles annually. Some of the town "take home" vehicles are not even meeting the rule to allow for that method to be used in which case you would take the fair market value of the vehicle, there is an annual lease value of the vehicle calculation that you would use instead. So there may be some issues with the amount being reported on the employees W2 form. Karen Jurek commented that she has asked for a couple of years whether or not this calculation was being done correctly. The way Karen reads the rule she does not think it is being computed correctly. There are certain requirements for elected officials vs. non-elected officials on the method you can use.

Mary Young from Lumsden & McCormick said that the commuting rule states you take the number of personal miles and multiply by \$1.50 however, elected officials do not fall under that rule. There are a few different ways this can be calculated, you have to find the way that works for each circumstance. There could be some criteria that eliminates some of the methods. Councilman Casilio stated that this is coming off their income tax but they are not reimbursing the town. Sara Dayton stated that instead of being reported on the W2 and they pay the tax on that benefit, you could have the employee reimburse the town the full amount. She further stated that there are two issues one is the calculation and which one to use and the other issue is whether or not the calculation should be paid by the town or paid by the employee. It is not that it cannot be paid by the town, it is whether or not you want it paid by the town as a benefit to those employees. In essence that gets added to their income for tax reporting purposes vs. whether the town wants them to pay for the use of that take home vehicle. The Town Board has to evaluate whether or not the employees need to take their vehicle home. Councilman Kolber said at the very least, the Town needs tracking ability to see who is actually using these vehicles and for what purpose are they being used so the Board can make an educated decision on this.

Sara Dayton stated that the way it is working now is the employees are providing their personal usage for their commuting. It may be more interesting to have employees provide their business usage (look at the odometer reading and the difference would be their personal usage). This way they can document what the business use is. Technically, this should be documented.

Councilman Kolber suggested the Board read through the letter of corrective actions in response to the State Auditor's recommendations and a motion will be made at the next Town Board meeting to accept the letter.

Mary Young stated that she did look at other municipalities and certain employees take their town vehicles home. Sara Dayton did not think there were any other towns using GPS to track their employees. Councilman Casilio questioned whether or not employees taking vehicles home should be filling out a log. He would like to review our existing policy on vehicle usage.

Motion by Councilman Casilio, seconded by Councilman Geiger to enter into Executive Session pursuant to § 105(1) F of the Open Meetings Law to discuss the employment history of a particular person. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 11:08 AM

Darcy A. Snyder
Deputy Town Clerk

Motion by Councilman Kolber, seconded by Councilman Casilio to adjourn the Executive Session at 11:29 A.M. Upon roll call – Ayes: All; Noes: None. Motion carried.